

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FELIX PRODUCE CORP.,

Plaintiff,

-against-

NEW LOTS FOOD CORP., d/b/a
BRAVOS SUPERMARKET and JERRY CHOEZ,

Defendants.

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APPEARANCES:

For Plaintiff: Jamie C. Krapf, Esq.
 Timothy J. Fierst, Esq.
 Crowell & Moring LLP
 153 East 53rd Street, 31st Floor
 New York, NY 10022-4611

For Defendants: No appearance

SEYBERT, District Judge:

Magistrate Arlene R. Lindsay issued a Report and Recommendation ("R&R") on August 24, 2009. As part of the R&R, Judge Lindsay warned that any objections were to be filed with the Clerk of the Court within ten days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court ADOPTS the R&R in its entirety. Accordingly, the Clerk of the Court is directed to enter a judgment of default in favor of Plaintiff Felix Produce Corp. ("Felix") against Defendants New Lots Food Corp. ("New Lots") and Jerry Choez ("Choez"), jointly and severally, in the amount of \$30,549.70 plus interest to be calculated at the annual rate of 2.57%. Felix's motion for attorneys' fees and costs

is DENIED without prejudice to renew upon such a showing of: (1) the qualifications of the attorneys and staff who worked on this action; and (2) a calculation of the time records detailing only work effectuated for claims against New Lots and Choez. If Felix wishes to renew its motion, it must do so by September 19, 2009. Any prejudgment interest shall be calculated from June 22, 2009 through the date of the entry of this Order.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 14, 2009
Central Islip, New York